

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Felipe Escalona-Hernandez,

Petitioner,

v.

Kerri Ann Quihuis, et al.,

Respondents.

Case No.: 2:24-cv-00029-RFB-MDC

**Order Dismissing Petition for Failure to
Respond to Show-Cause Order**

Felipe Escalona-Hernandez, who is in the custody of the Department of Homeland Security, Immigration and Customs Enforcement at Nevada Southern Detention Center in Pahrump, Nevada, filed a 28 U.S.C. § 2241 petition for writ of habeas corpus seeking immediate release from custody or a detention/bond hearing. ECF No. 1-1. Because it appeared from the petition that Escalona-Hernandez had not exhausted his administrative remedies with respect to his continued detention, the Court directed him, within 30 days, to show cause and demonstrate any proof he may have that the petition is not subject to dismissal without prejudice for failure to exhaust administrative remedies. ECF No. 5. More than the allotted time has passed, and Escalona-Hernandez has not responded to the show-cause order or contacted the Court in any manner. The Court, therefore, dismisses the petition without prejudice. Escalona-Hernandez also filed what he styled as a petition for stay of deportation. ECF No. 4. But such relief must be sought in a separate proceeding and can only be granted by the Ninth Circuit Court of Appeals. See, e.g., DeLeon v. INS, 115 F.3d 643 (9th Cir. 1997). The Court notes that Escalona-Hernandez stated in his operative petition (ECF No. 1-1) that his petition for review of removal order is pending before the Ninth Circuit Court of Appeals. As a federal detainee proceeding under 28 U.S.C. § 2241, Escalona-Hernandez is not required to obtain a certificate of appealability from the dismissal of this petition. See Harrison v. Ollison, 519 F.3d 952, 958 (9th Cir. 2008).

1 **IT IS THEREFORE ORDERED** that the **petition is DISMISSED** without prejudice
2 for failure to respond to the show-cause order.

3 **IT IF FURTHER ORDERED** that the petition for stay of removal **(ECF No. 4) is**
4 **DENIED.**

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6 Dated: April 25, 2024.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE